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NO. 83-1823

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

GEORGE W. STRAKE, JR.,
Appellant,

v.

A. M. SEAMON, ET AL.,
Appellees.

On Appeal From The United States District Court For The Eastern District Of Texas

BRIEF OPPOSING APPELLEES' MOTION TO DISMISS OR AFFIRM

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George W. Strake, Jr., Appellant, will not argue with the Appellees' legal positions in their motion to dismiss or affirm even though Appellant believes them to be inapplicable to the present case. Appellant feels that his jurisdictional statement amply sets forth factual and legal bases which show that the trial court erroneously decided a case with grave and far-reaching effect. Appellant's case is worthy of this court's full and deliberate consideration.

On the other hand, Appellant is compelled to file this brief to correct an apparent factual misstatement in Appellees' motion to dismiss or affirm. On page 2 of their motion in footnote 2, Appellees state that in a 65% minority population district, a district that Appellant contends could and should have been created in Dallas County, minority voters would not constitute a voting majority.

The NAACP plaintiffs had a proposed 65% minority population district plan, but were directed by the trial court not to present it until the court had determined whether the plan before it, SB480, was invalid. Since the trial court upheld SB480, no 65% minority district plan was ever presented in court.

Perhaps Appellees are referring to proposed 65% minority districts that both Appellant and the NAACP plaintiffs submitted to the Justice Department in their letters opposing preclearance of SB480. However, none of these district plans contained any statistics, either in absolute numbers or percentages, on the amount of minority registered voters.

In Texas, there is no indication of race or ethnicity on voter registration records. An attempt has been made to approximate the hispanic registered voters in any area by a computer count of the registered voters in that area with hispanic surnames. Obviously, the same cannot be done for registered voters who are black. Appellant is not aware of any data that shows the number of registered voters who were minority in the 65% minority population district that the NAACP plaintiffs and Appellant felt should have been created. Census data for the 65% minority districts which the NAACP plaintiffs and Appel-

lant proposed to the Justice Department shows that minority individuals are approximately 59% of the voting age population of those districts.

Furthermore, regardless of the number of minority registered voters in the proposed 65% minority district at the present time, the actual existence of such a district would increase the number of minority individuals within that district who are registered to vote. This is the heart of Appellant's complaint about the absence of such a district. Without such a district, the access of minorities to the political processes is inhibited and consequently their involvement through registration and voting is depressed.

CONCLUSION

In conclusion, having commented on the apparent misstatement in Appellee's motion to dismiss or affirm, Appellant respectfully reiterates its request to note probable jurisdiction of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent via U.S. Mail, certified return receipt requested on this the ____ day of September, 1984, to all counsel of record as of this date.

DAVID HERNDON